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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,616	10/19/2006	Nathalie Bergeret	0549-1018	5414
466 7590 02/05/2008 YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER BODAWALA, DIMPLE N	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 02/05/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/581,616	Applicant(s) BERGERET, NATHALIE	
	Examiner Dimple N. Bodawala	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/5/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: *Reference No. 30 for "an external ledge" is not shown in the figures 1-13.* Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 20-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 20 cites the limitations "the upper edge" in line 4, "the lower part" in line 5, "the periphery of a ring" in lines 5-6, and "the lower part of its side" in line 9. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 20 is vague and indefinite because it unclear about which lower part having a protruding lip extending above the ring of material.

7. Claim 21 recites the limitation "the inside of the base" in line 3. There is insufficient antecedent basis for this limitation in the claim, because claim 21 is depended on the claim 20, wherein claim 20 discloses a base stiffener as a limitation, but does not define the inside of the base as a limitation, wherein this limitation makes the scope of the subject matter indeterminate.

8. Claims 22 and 23 recite the limitation "the total surface area of the base of the hollow piece" in lines 3-4. There is insufficient antecedent basis for this limitation in the claims, because claims 22 and 23 are depended on

claim 20, wherein claim 20 discloses a base stiffener as a limitation, but does not define the base of the hollow piece, and therefore claim 20 is not able to define the total surface area of the base of the hollow piece, wherein this limitation makes the scope of the subject matter indeterminate.

9. Claim 27 is vague and indefinite because it is unclear which part is made thicker in which periphery by shouldering of an internally surface, wherein the periphery is also vague and indefinite because earlier claims disclose a periphery of the ring of material and a periphery of the base stiffener. Therefore the limitation "the periphery" is confused among those peripheries, which are defined above, and involved to make the scope of the subject matter indefinite.

10. Claim 27 recites the limitation "the periphery" in line 4, and "said internal surface of the bottom wall of the ring of material" in lines 7-8. There is insufficient antecedent basis for these limitations in the claim, because claim 27 is depended on claim 26, wherein claim 26 discloses the bottom wall of the ring of the material as a limitation, but does not define the internal surface of the bottom wall of the ring as a limitation.

11. Claim 30 recites the limitations "the upper edge" in line 4, and "the lower part" in line 5. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 34 recites the limitation "the periphery of the upper rim" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim, because claim 34 is depended on claim 32, wherein claim 32 does not define such limitation. However, claim 30 discloses a periphery of the plate shaped base stiffener, but does not define the periphery of the upper rim, which makes the scope of the subject matter indeterminate.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 20-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brassset (U S Publication Application No. 2004/0231527) in view of Cheeley (U S Patent No. 2,960,218).

16. Brassset ('527) discloses a flexible mold for a culinary preparation (See paragraph # 9) which comprises a flexible hollow piece made from elastomer material (See paragraph # 3) having an upright side wall (3), an upper edge which forms an opening (5), and a lower part which is connected to a periphery of a ring of material to define a base (1) (See figure 1), wherein a base having a plate shaped (see figure 3). It further discloses an upper rim (4) which is made of the same material as the base (1) (See paragraph # 34). It further teaches that the hollow piece is made of the silicone material (See paragraph # 8). Figure 1 further teaches that the base (1) is integral with the side wall (3) made from the elastomer material and occupies between  $1/5$  and  $4/5$ , preferably between  $1/3$  and  $2/3$  of the total surface area of the base of the hollow piece.

17. Brassset ('527) discloses a rigid reinforcement member (7) as a stiffener which is extending around the upper rim, wherein the reinforcement

members having an elliptical ring shape (See paragraph # 32 and 33). It further teaches that the upper rim (4) is provided with the stiffener (7) located at the periphery of the upper rim (See figure 3). It further teaches that the rim (4) is provided with stiffener in an excrescence of the rim (4) (See figure 6; paragraph # 26-28). It further teaches that the rim (4) is annular (See figures 1 and 2) and providing with a peripherally located stiffener (7) having a ring shape (See figures 5, 6 and 7; paragraph # 32-33).

18. Brasset ('527) discloses all claimed structural limitation as discussed above, but fails to teach or suggest a plate shaped base stiffener, which is disposed near by the bottom wall of the hollow piece.

19. In the analogous art, Cheeley ('218) discloses a cooking pan which comprises a bottom wall, wherein a bottom wall has at least one protruding lip (14) extending above the bottom for defining a retaining groove (14). It further discloses a circular ledge (13) as a plate shaped stiffener which is disposed centrally in the bottom portion of the pan, wherein the ledge is surrounded by groove (14) on the inside of the pan (See col.2 lines 65-70). It further teaches that the plate-shaped base stiffener (13) has a flat periphery where it is secured by molding to the groove (14) of the pan (See figures 3 and 4). It further teaches that a stiffener (13) is solid and removable from the



groove (14) (See figure 3a). It further teaches that the bottom portion displays variation in thickness (See figure 3a and 4), wherein the bottom portion has externally a substantially flat surface and internally a surface presenting a shouldering making it thicker in the periphery than in the central part (See figure 3a), and the stiffener (13) positioned inside the hollow piece approximately follows the internal surface of the bottom wall on which it is disposed so that the stiffener has two opposed curvilinear surfaces (See figure 3a).

20. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Brassat ('527) by providing a plate-shaped base stiffener for defining a bottom of the container and supporting the material in the inverted position (See col.2 lines 47-55) as suggested by Cheeley ('218).

21. Claims 20-32 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahlgren (U S Patent No. 4,184,421) in view of Liorente Hompanera (U S Publication Application No. 2001/0043977).

22. Ahlgren ('421) discloses a pan (11) for cooking food as a flexible hollow piece which comprises side wall, an upper edge for forming an opening and a lower part which is connected to a periphery of ring of material to define a

bottom (15) of the pan (11) (See figure 1 and 4). It further discloses a support surface (13) as a plate shaped base stiffener stuck to the lower part of the pan for defining a base for the mould in the lower part of the side wall (See figure 4; col.3 lines 42-50). It further teaches that the pan defining a depressed relief (18) as a protruding lip extending above the bottom (15) for defining a groove in which the stiffener (13) is received, wherein the stiffener (13) is inserted is facing the inside of the base (See figure 4; col.3 lines 42-50).

Figure 4 further teaches that the base (15) is integral with the side wall and occupies between  $1/5$  and  $4/5$ , preferably between  $1/3$  and  $2/3$  of the total surface area of the base of the pan (11). Figure 4 further teaches that the stiffener (13) is solid and having a flat periphery where it is secured by molding to the groove (18). It further teaches that the stiffener (13) is removable from the groove (See figure 1). Figure 4 further teaches that the base is defining a bottom which displays different thickness, wherein the bottom has externally a substantially flat surface and internally a surface presenting a shoulder making it thicker in the periphery than in a central part, wherein the stiffener (13) positioned inside the pan (11), approximately follows the internal surface of the bottom (16) on which it is disposed so that the stiffener (13) has two opposed curvilinear surfaces. Figure 1 further

teaches that the plate shaped base stiffener (13) is elevated at its periphery , where it is removably received in the groove.

23. Ahlgren ('421) discloses all claimed structural limitation as discussed above. It further teaches that the pan is made of rigid and flexible material, but fails to teach that pan is made from an elastomer material such as Silicone.

24. In the analogous art, Liorente Hompanera ('977) discloses use of silicone for manufacturing a confectionery moulds and baking receptacle, wherein the cooking pan is made of flexible elastomeric material such as silicone, wherein silicone material is a heat curable elastomer (See paragraph # 11, 13 and 14), which is intended for application in contact with food stuff. It further involved for the operation of easily removal of the baked product from the mold (See abstract), and the operation of easily washed of mold or receptacle. Furthermore, silicone having a high flexibility which is involved to make a mold or receptacle with desire shape and size to suit user requirement (See paragraph # 13).

25. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Ahlgren ('421) by providing a flexible elastomeric material such as silicone material for pan

rather than a rigid material because such flexible elastomeric material is involved for the operation of easily removal of the baked product from the mold (See abstract), and the operation of easily washed of mold or receptacle, further involved to make a mold or receptacle with desire shape and size to suit user requirement (See paragraph # 13), and silicone material is a heat curable elastomer (See paragraph # 11, 13 and 14), which is intended for application in contact with food stuff as suggested by Liorente Hompanera ('977).

### *Conclusion*

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (SEE PTOL-892 for further reference related to flexible silicone mold).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dimple N. Bodawala whose telephone number is (571) 272-6455. The examiner can normally be reached on Monday - Friday at 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra N. Gupta can be reached on (571) 272-

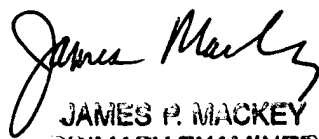
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1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DNB

  
JAMES P. MACKEY  
PRIMARY EXAMINER  
2/4/08